

No. 05-3725

FILED

APR 05 2006

LEONARD GREEN, Clerk

THE KROGER COMPANY,

Plaintiff-Appellee,

v.

MALEASE FOODS CORP.,

formerly known as Malese Foods Corp.

Defendant-Appellant.

ORDER

06 APR -5 PM 4:35

1:02cv439

**ORDER REMANDING CASE TO THE DISTRICT COURT  
FOR ENTRY OF DISMISSAL AS MOOT**

On February 6, 2006, this court remanded *Kroger Co. v. Malease Foods Corp.*, No. 04-4512, to the district court for an entry of dismissal for lack of personal jurisdiction over the defendant, Malease Foods Corporation. Pursuant to the ruling in that case, the instant appeal is also remanded to the district court for an entry of dismissal as moot.

IT IS HEREBY ORDERED that *Kroger v. Malease*, No. 05-3725, is remanded to the district court for an entry of DISMISSAL as MOOT.

ENTERED BY ORDER OF THE COURT.

Leonard Green

Leonard Green, Clerk.

A TRUE COPY  
Attest:  
LEONARD GREEN, Clerk  
By Tonya Farmer  
Deputy Clerk

LEONARD GREEN  
CLERK

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT  
100 EAST FIFTH STREET, ROOM 540  
POTTER STEWART U.S. COURTHOUSE  
CINCINNATI, OHIO 45202-3988

NANCY J. BARNES  
(513) 564-7022  
(FAX) 564-7096  
[www.ca6.uscourts.gov](http://www.ca6.uscourts.gov)

Filed: April 5, 2006

Scott D. Phillips  
Frost, Brown & Todd  
201 E. Fifth Street  
Suite 2200 PNC Center  
Cincinnati, OH 45202-4182

Douglas R. Dennis  
Frost, Brown & Todd  
201 E. Fifth Street  
Suite 2200 PNC Center  
Cincinnati, OH 45202-4182

R. Gary Winters  
McCaslin, Imbus & McCaslin  
632 Vine Street  
Suite 900 Provident Bank Building  
Cincinnati, OH 45202

RE: 05-3725  
Kroger Co vs. Malease Foods Corp  
District Court No. 02-00439

Enclosed is a copy of an order which was entered today in the above-styled case.

(Ms.) Nancy Barnes  
Case Manager

Enclosure

cc:  
Honorable Sandra S. Beckwith  
Mr. James Bonini